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10/822,125	04/08/2004	Yaron Mayer		2467

7590
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05/14/2008

EXAMINER

SENSENIG, SHAUN D

ART UNIT	PAPER NUMBER
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4176

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05/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,125	Applicant(s) MAYER ET AL.	
	Examiner Shaun Sensenig	Art Unit 4176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to for being of excessive length and improper content/language. Correction is required. See MPEP § 608.01(b).
3. The incorporation of essential material into the specification by reference to a foreign application or patent, or to a publication, is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-21 fail to satisfy the requirements for statutory subject matter eligibility because they are considered to be drawn merely to a method of producing a disembodied data structure. It has been held that such claims are considered to comprise non-statutory subject matter, for merely manipulating an abstract idea without producing any “useful, concrete, and tangible result.” *In re Warmerdam*, 33 F.3d 1354; 31 USPQ2d 1754 (Fed. Cir. 1994).

Claim Rejections - 35 USC § 112, Second Paragraph

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-21 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a

manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

For example:

- a. terms that are self-contradictory, such "self-employed employee".
- b. broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim), such as "instantly remove him or at least force him to work from his own company" (Claim 4) and "lecturers, consultants, insurance agents, and other vocations" (Claim 20).
- c. relative terms which render the claim indefinite, such as "like" (Claim 1) and "almost" (Claim 5) and "naturally" (Claim 10).
- d. terms that are unclear and not defined in the specification, such as "united company"
- e. superfluous use of the term "also"

8. **Claims 9 and 19** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims have been deemed to solely comprise conditional language, which is therefore not required, since only one possible alternative is recited.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-4, 9, 11-14, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by profitablerealestate.com (sample bank statement webpage for “Security Pacific Bank Washington” retrieved from the Wayback Machine as of December 22, 2001) (hereafter referred to as SPBW).

11. In regards to **claims 1 and 11**, SPBW discloses:

12. A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy, comprising at least one of:

a. A system for issuing for each self-employed employee invoices and/or receipts that contain individual information other than just different serial numbers of the invoice or receipt. (SPBW)

b. A system for issuing and running for each self-employed employee an individual business bank account that is legally separate from other accounts of the company and of other self-employed employees of the company, and the employee draws his salary from said individual account. (Account Number)

c. A system for keeping a cell structure in the united company so that each self-employed employee is protected from at least some actions and/or problems of the company and/or of other self-employed employees.

13. In regards to **claims 2 and 12**, SPBW discloses:

14. A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein the united company runs a separate computerized tracking of all the transactions related to each self-employed employee, and said tracking comprises at least one of:

a. Tracking all the incoming payments associated with the employee, and taking out a commission for the united company based on at least one of a fixed amount and a certain percent of the income.

b. Taking into the account also the deductible expenses of the employee. (Other Checking Deductions)

c. Printing a periodical report for the employee that includes also his income and his deductible expenses.

d. Taking care of the VAT payments of the employee.

e. Taking care of the National security payments of the employee.

f. Filing the appropriate amounts or percentages out of the person's income for required social security arrangements.

15. g. Filing the appropriate amounts or percentages out of the person's income for optional social security arrangements which the employee chooses to have.

16. In regards to **claims 3 and 13**, SPBW discloses:

17. A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein at least one of the following features exist:

a. Each self-employed employee can personally fill and sign invoices and/or receipts of the united company.

b. Only the company has a right to issue receipts and/or invoices and determine their serial numbers. (SPBW)

c. All receipts and/or invoices carry the logo and/or identifying details of the company and need to fit with the correct serial numbers, so that different self-employed employees can't get the same serial numbers.

d. The invoices and/or receipts that the self-employed employees can use contain in addition to the name and logo of the united company at least one of: The employee's name, the employee's citizen Id number, a serial number issued by the united company to each employee, a special name for his business which the self-employed employee can choose, and a special logo that the self-employed employee can choose

e. Each self-employed employee is required to scan copies of the receipts and/or invoices that he filled into the company's computer and/or key in the relevant details, and these data are electronically sent to the united company.

f. The filled numbers in the receipts can be automatically recognized by OCR instead or in addition to the manual keying-in of the values, so that the numbers can be compared to detect possible errors.

g. Each self-employed employee is required also to scan and/or key-in at least the relevant amounts of money and electronically send the data also for all the receipts of deductible expenses that he acquired each month.

h. The invoices and/or receipts issued by the self employed employee and/or all the receipts for deductible expenses acquired by him are delivered by him physically to the united company at least one each month, and workers of the united company itself take care of at least one of: Keeping copies, issuing a copy of each income and each expense receipt also to the self employed employee, and entering the relevant data into the united company's computer.

i. Each self-employed employee is required to report all of his expenses and incomes in time before the company has to submit the monthly VAT report to the tax authorities and if he fails to do so, he has to pay the company a fine and/or pay back any expenses caused by this to the company.

j. If the self-employed employee fails to report his incomes and/or expenses on time too many times, he can be forced by the company to switch to the status of having is own company or becoming independent.

k. If the company warns the self-employed employee about improperly filling his invoices and/or receipts and he does not immediately correct it, he can be forced by the company to switch to the status of having is own company or becoming independent.

l. The company computers and/or the bank computers also check automatically that there is a reasonable correspondence between the receipts issued and sums deposited in the divisional account of the self employed.

m. The united company adds automatically to the invoices and receipts and/or other papers that it supplies to the self-employed employee an explanation that said employee is independent and that the united company only gives him certain services and the united company is not responsible for his activities.

18. In regards to **Claims 4 and 14**, SPBW discloses:

19. A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein at least one of the following features exist:

a. Each self-employed employee can get paid any times he likes during the month.

b. Each self-employed employee's bank account is a sub-account of the united company's account, with 2 or more levels of hierarchy.

c. The company and the employee have a signed contract with each other and with the bank so that each such employee can deposit and draw his own money from this account like a personal bank account.

d. The account is regarded as an account of a division of the company that represents the cell associated with that person, and thus not a personal account, and so when the person pulls money out of that account this is regarded as drawing his salary.

e. The contract also ensures that no other employee has access to his account except for one or more managers of the company who are in charge of monitoring these accounts.

f. The company can draw money out of the employee's account only under at least one of the following conditions: If he owes the company money for required tax advance-payments and/or for other debts and/or obligations. (SPBW)

g. The company is obligated to the self-employed employees that in case it become bankrupt it cannot touch their accounts.

h. The accounts of the self-employed employees are defined as an entrusted personal fund.

i. The company's centralized accounting and monitoring automatically checks also that the transactions in each account comply with the receipts that the person filled.

j. Each self-employed employee has to sign a contract that allows the united company to instantly remove him or at least force him to work from his own company, if the company is not satisfied from his activities, because they are at least one of:

considered inappropriate and/or illegal in terms of the tax authorities and/or the law and/or unfairness to clients.

k. Each self-employed employee has to sign that he alone is responsible for any illegal activities that he does and/or has to indemnify the company for any suits brought against company because of him.

l. In the contract with the united company the self-employed employee has to sign an obligation that in any job that he performs for any 3.sup.rd party he must explain that he is independent and the united company only gives him certain services and is not responsible for his activities.

m. The self-employed employee can use the protection of the company for limiting his normal liability to the amount in the account of his division.

n. Each self-employed employee is automatically limited by the united company's computer as to how much money he can draw out at any time as a salary, so that all the time at least the minimum amount that might be required for paying the company has to remain in the account.

o. Whenever the self-employed employee tries to make a withdrawal of salary from his company related account, the company's computer tells him how much his salary for that month will be considered to be according to the amounts already withdrawn for that month and the amount that he currently intends to withdraw, and the computer can recommend to him each month the recommended amount or range of amounts that can be optimally withdrawn so as to optimize the taxes.

p. The self employed employee has to extract the rest of his salary and/or a bonus by the end of the fiscal year, since otherwise he cannot normally carry on surpluses or losses to the next year since it is not his own company.

q. If the self-employed employee has losses and/or wishes to carry over surpluses or losses to the next year, this can be settled automatically by the company's computers between the self-employed employee and the company and/or between the various self-employed employees by method of compensation at the same time or later.

r. The money is in a bank account run by a trustee and the trustee has to authorize each extraction of money by the self employed employee from the account.

s. The self-employed employee can only pull money from his account by signatures of both himself and someone from the united company, and thus the company has much better control on that.

t. The self-employed employee has to give the united company the right to extract automatically the needed amounts every month from this account, in a way similar to paying bills automatically.

20. u. If the self-employed employee draws a salary below the recommended monthly amount, then the united company's computer can at least one of: Warn him about this automatically and Automatically transfer the missing part of the salary to his individual (non-company) bank account.

21. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Piehl (Patent No. US 6,898,573 B1).

22. In regards to **claim 21**, Piehl discloses:

23. A method in which an insurance company offers insurance agents also accounting services, wherein the normal tracking for the security agents comprises at least one of the following steps: a. Taking into the account also the deductible expenses of the employee. b. Taking care of the VAT payments of the employee. c. Taking care of the National security payments of the employee. d. Printing a periodical report for the employee that includes also his deductible expenses and not only his incomes. e. Offering the insurance agents to become self-employed employees of the insurance company. (Figure 2-1 to 2-5)

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

26. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over SPBW in view of Piehl.

27. In regards to **claims 5 and 15**, SPBW does not disclose employees switching between self-employed and company employed status, however, Piehl teaches:

28. A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein the self employed employees can easily switch from the status of being part of the company to becoming really self employed or to being employed in their own private company or switch back, and at least one of the following features exist:

a. Such switches can be done with almost no changes in the at least one of: The automatic accounting and/or tracking services, and other services that are offered by the company (Figure 2-5)

b. The company also has the right to require self-employed employees to switch between these states according to various criteria, which can include at least one of: People that deal with inherently more risky financial endeavors and/or people who have violated various roles of the organization are required to move into their independent company.

c. The company's computer can automatically recommend to various self-employed employees when it is more preferable for them to have their own company and when to be self-employed in the organization, depending on various criteria.

29. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of SPBW so as to have included the switching between self-employed and company employed status taught by Piehl in order to preserve the autonomy of the self-employed persons, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

30. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over SPBW in view of Commonwealth of Pennsylvania State Civil Service Commission (retrieved from the Wayback Machine as of January 24, 2002) (hereafter referred to as PASCSC).

31. In regards to **claims 6 and 16**, SPBW does not disclose additional benefits, however, PASCSC teaches:

32. A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein the united company can offer the self-employed employees additional benefits based on the fact that a large number of self-employed-employees are united together, and said benefits include at least one of:

a. Helping them find work and/or deals and/or projects, so that the company acts also like a human resources company, except that these are actually self employed people and not normal employees,

b. Leasing cars at cheaper prices than a normal independent person or small company can get.

c. Getting office supplies at cheaper prices.

d. Getting various types of insurance at lower prices.

e. Getting special offers for shopping various items and/or vacation deals, and/or other deals.

f. Offering investment managing for their accounts.

g. Offering unemployment insurance or reduced income insurance from the company.

h. Part of the monthly income of each such employee is used for sickness insurance, vacations, etc.

i. A certain percent of the self-employed employee's income each month can be automatically diverted to some trust fund, so that if the person leaves the company he can get paid from this fund a discharge compensation. (PASCSC)

33. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of SPBW so as to have included the additional benefits taught by PASCSC in order to promote morale and active participation in the company, since doing so could be performed readily and easily by any person of

ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

34. Claims 7, 8, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over SPBW in view of Amway2u.com (hereafter referred to as Amway).

35. In regards to **claims 7 and 17**, SPBW does not disclose employees bringing additional employees into the company, however, Amway teaches:

36. A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein at least one of the following features exists:

- a. The self-employed employees have to sign a contract with the company that explains the situation of being actually self-employed and exempts the company from being required to pay them minimal wages and/or other social obligations.

- b. Each self-employed employee gets at least a few options and/or stocks of the company, so that he can also take part in its profits and can have more motivation to help it grow further.

- c. Each self-employed employee that brings to the company additional people who become self-employed employees there gets at least one of: A bonus for and more options or stock options. (How do you begin?, line 1)

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of SPBW so as to have included employees bringing

additional employees into the company taught by Amway in order to promote the growth of the company, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

37. In regards to **claims 8 and 18**, SPBW does not disclose incentives for employees bringing additional employees into the company, however, Amway teaches: A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein at least one of the following features exists:

a. The rewards for bringing additional people can work also recursively, so that the person who brings a person that brings an additional person can get a reward also for the indirectly added person. (Qualifying for Higher Awards, lines 1-3)

b. The rewards for bringing additional people can work also recursively, so that the person who brings a person that brings an additional person can get a reward also for the indirectly added person, and this additional recursive rewarding can continue up to a certain monetary limit and/or up to a certain depth and/or breadth of the resulting sub-tree. (Qualifying for Higher Awards, lines 1-3)

38. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of SPBW so as to have included incentives for employees bringing additional employees into the company taught by Amway in order to promote morale and active participation in the company, since doing so could be

performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

39. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over SPBW in view of Credit Union National Association (retrieved from the Wayback Machine as of March 14, 2003) (hereafter referred to as CUNA).

40. In regards to **claims 10 and 20**, SPBW does not disclose limiting membership, however, CUNA teaches:

A system for enabling self-employed people to work like hired employees in a united company while keeping autonomy wherein the chance of complications for the company is reduced by at least one of:

a. Limiting membership as employees of the united company only to at least one of: lecturers, consultants, insurance agents, and other vocations that are naturally more fit for such an arrangement. (Membership Eligibility)

b. Further enhancing the cellular structure by converting some of the divisions into registered sub-companies of the united company, according to general vocation and/or according to the number of self-employed employees in each division.

41. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of SPBW so as to have included the limiting of membership taught by Amway in order to keep the company better focused on its employees' needs, since doing so could be performed readily and easily by any person

of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Conclusion

42. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

43. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun Sensenig whose telephone number is (571) 270-5393. The examiner can normally be reached on Monday to Thursday 7:30 to 5:00 ET.

44. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

45. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. S./
Examiner, Art Unit 4176
May 12, 2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 4176